



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

TEXAS HEALTH FORT WORTH

**Respondent Name**

ACADIA INSURANCE COMPANY

**MFDR Tracking Number**

M4-18-0334-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

October 10, 2017

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "please see attached supporting documentation as proof that claim was originally filed within a timely manner."

**Amount in Dispute:** \$

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The provider was required to submit its bill to the carrier no later than the 95<sup>th</sup> day following the date of service."

**Response Submitted by:** Flahive, Ogden & Latson, Attorneys At Law, P.C.

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Dispute Amount	Amount Due
November 8, 2016 to November 25, 2016	Outpatient Hospital Occupational Therapy Services	\$603.70	\$0.00

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.20 sets out medical bill submission procedures for health care providers.
3. 28 Texas Administrative Code §102.4 establishes rules for non-Commission communications.
4. Texas Labor Code §408.027 sets out provisions related to payment of health care providers.
5. Texas Labor Code §408.0272 provides for certain exceptions to untimely submission of a medical claim.
6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 29 – THE TIME LIMIT FOR FILING HAS EXPIRED
  - 18 – EXACT DUPLICATE CLAIM/SERVICE
  - W3 – ADDITIONAL PAYMENT MADE ON APPEAL/RECONSIDERATION.
  - 193 – ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVIEW, IT WAS DETERMINED THAT THIS CLAIM WAS PROCESSED PROPERLY.

## Issues

1. Did the requestor forfeit the right to reimbursement for disputed services due to untimely submission of the medical bill to the correct carrier within 95 days of notification of erroneous submission to the wrong carrier?

## Findings

1. The insurance carrier denied disputed services with adjustment code 29 – “THE TIME LIMIT FOR FILING HAS EXPIRED.”

28 Texas Administrative Code §133.20(b) requires that, except as provided in Texas Labor Code §408.0272, “a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided.”

Texas Labor Code §408.027(a) states that “Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment.”

Texas Labor Code §408.0272(b) provides that, notwithstanding Section 408.027, a health care provider who fails to timely submit a claim for payment to the insurance carrier under Section 408.027(a) does not forfeit the provider's right to reimbursement for that claim for payment solely for failure to submit a timely claim if:

- (1) the provider submits proof satisfactory to the commissioner that the provider, within the period prescribed by Section 408.027(a), erroneously filed for reimbursement with:
  - (A) an insurer that issues a policy of group accident and health insurance . . .
  - (B) a health maintenance organization that issues an evidence of coverage . . .
  - (C) a workers' compensation insurance carrier other than the insurance carrier liable . . .
- (2) the commissioner determines that the failure resulted from a catastrophic event . . .

Texas Labor Code §408.0272(c) further requires that, notwithstanding §408.0272(b), a provider who erroneously submits a claim for payment to an entity described above:

forfeits the provider's right to reimbursement for that claim if the provider fails to submit the claim to the correct workers' compensation insurance carrier within 95 days after the date the provider is notified of the provider's erroneous submission of the claim.

The requestor presented proof satisfactory to the division that the provider, within the initial 95 day period, filed the medical bill for reimbursement with an erroneous carrier. The documentation is sufficient to support an exception under Labor Code §408.0272(b)(1). For that reason, the health care provider was required to submit the medical bill not later than 95 days after the date provider was notified of the provider's erroneous submission of the claim, in accordance with the requirements of Labor Code §408.0272(c).

The requestor's documentation shows that the provider was notified that “INSURANCE CHANGED” on either December 8<sup>th</sup> or December 9<sup>th</sup>, 2016 (there are two dates given). The 95<sup>th</sup> days following both dates were Monday, March 13, 2017 and Tuesday, March 14, 2017 (respectively). The earliest dated explanation of benefits (EOB) shows a receipt date for the medical bill by the insurance carrier of March 27, 2017. This is later than the 95<sup>th</sup> day in either case.

Alternatively, there is a fax confirmation letter showing successful transmission on March 20<sup>th</sup>, 2017.

28 Texas Administrative Code §102.4(h) states that, unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on:

- (1) the date received, if sent by fax, personal delivery or electronic transmission

It is unclear from the documentation who received the fax and what contents were included. But, even giving the requestor the benefit of the doubt, the March 20<sup>th</sup> receipt date is outside the 95 day time limit from the date the provider was notified of erroneous carrier submission on December 8<sup>th</sup> (and/or December 9<sup>th</sup>), 2016.

Based on the documentation presented for review to MFDR, the requestor has failed to support timely submission of the medical bill to the correct insurance carrier within 95 days of the date of notification of erroneous carrier submission in accordance with Labor Code §408.0272(c). Consequently, the division concludes the requestor has forfeited the right to payment due to untimely submission of the medical bill, pursuant to Labor Code §408.027(a).

### **Conclusion**

For the reasons stated above, the division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based on the submitted information, pursuant to Texas Labor Code Section 413.031, the division hereby determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

### **Authorized Signature**

_____	Grayson Richardson	November 1, 2017
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form DWC045M) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.